

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION AT AKRON**

IN RE:	) CASE NO. 05-59305
DAVID N. DOLTON)
Debtor	) ADVERSARY PROCEEDING
	) NO.
HAROLD A. CORZIN, TRUSTEE)
304 N. Cleveland-Massillon Road	) IN PROCEEDINGS UNDER
Akron, OH 44333	) CHAPTER 7
)
Plaintiff	) BANKRUPTCY JUDGE
	) MARILYN SHEA-STONUM
vs.)
)
JEFFREY RECHTORIK	) COMPLAINT
561 High Street)
Doylesstown, OH 44230	) TYPE: LIEN AVOIDANCE
	) PREFERENCE/FRAUDULENT
Defendant	) TRANSFER

Now comes Harold A. Corzin, Trustee, the plaintiff herein, and for his causes of action against the defendant, Jeffrey Rechtorik, states as follows:

I - JURISDICTION AND PARTIES

1. This court has jurisdiction over the within adversary proceeding pursuant to 28 USC section 1334 and 28 USC section 157 and the claims set forth herein are core proceedings within the meaning of the United States Bankruptcy Code.
2. The plaintiff, Harold A. Corzin, Trustee, is the duly appointed, qualified, and acting trustee for the debtor, David N. Dolton, who commenced his petition seeking relief under Chapter 7 of the United States Bankruptcy Code on the 14th day of October 2005.
3. The defendant, Jeffrey Rechtorik is an individual and a resident of Summit County, Ohio.

II - FIRST CLAIM FOR RELIEF

4. The defendant, David N. Dolton is the owner of certain property known for mailing purposes as 1814 Leolyn Street, Pittsburgh, Pennsylvania, 15210 and more particularly described in "Exhibit A" attached hereto and incorporated herein by reference as if rewritten in full.

5. Although said property, at the time of the filing of the bankruptcy petition, evidenced legal title in the name of Tracey Rechtorik, such property constitutes property of the estate of the debtor pursuant to section 541 of the United States Bankruptcy Code.

6. That such property constitutes property of the estate which the trustee may use, sell, or lease pursuant to section 363 of the United States Bankruptcy Code.

7. The defendant, Jeffrey Rechtorik, has or may claim to have some interest in said property and should be required to set forth such interest or be forever barred.

8. That the determination of the lien, claim, or interest of the defendant, Jeffrey Rechtorik, in and/or to said real property is necessary for the proper administration of this estate.

III - SECOND CLAIM FOR RELIEF

9. That the debtor, David N. Dolton, did transfer money to Tracey Rechtorik for her use as his agent to acquire the property described in "Exhibit A" or alternatively the funds used for the purchase were transferred to Tracey Rechtorik under circumstances where the debtor received less than a reasonably equivalent value in exchange for such transfer obligation and the debtor was insolvent on such date.

10. That an equitable trust is imposed upon these transfers of funds.

11. That this transfer was made within one year of the date of the filing of the petition and were voluntarily performed by the debtor.

12. That Tracey Rechtorik has executed her deed conveying said property described in "Exhibit A" into the name of the debtor and such property, to the extent not previously property of the estate, became property of the estate by virtue of said conveyance.

13. That during the time period that legal title was held in the name of Tracey Rechtorik, her former spouse, Jeffrey Rechtorik, caused a judicial lien to be filed in accordance with the laws of the state of Pennsylvania and such lien acts as a cloud upon the title of the plaintiff.

14. That the filing of the judicial lien effectuates a transfer of property and as a consequence, if the property were property of the debtor, David N. Dolton, Jeffrey Rechtorik would constitute an immediate transferee of the initial transferee, Tracey Rechtorik.

15. That Jeffrey Rechtorik did not give value and did not take his lien in good faith and without knowledge of the voidability of the transfer avoided.

16. That Jeffrey Rechtorik knew Tracey Rechtorik did not have assets from which the real property described in "Exhibit A" could have been obtained by virtue of his marriage and divorce from said Tracey Rechtorik.

17. That such transfer is avoidable pursuant to sections 548 and 550 of the United States Bankruptcy Code and such lien does not properly encumber the property of the estate or alternatively is avoidable.

IV - THIRD CLAIM FOR RELIEF

18. That the transfer from David N. Dolton to Tracey Rechtorik, if a transfer in fact occurred, was fraudulent as to creditors of said David N. Dolton under the laws of the state of Pennsylvania including specifically section 5105 of the Pennsylvania Consolidated Statutes since such transfer was made without the debtor receiving a reasonably equivalent value in exchange for the transfer and the debtor was insolvent at the time of said transfer or the debtor became insolvent as a result of the transfer.

19. That under the laws of the state of Pennsylvania, including specifically section 5107 of the Pennsylvania Consolidated Statutes, the plaintiff had the right to avoid the transfer of the property described above from the debtor defendant to Tracey Rechtorik.

20. That a good faith transferee is entitled to a lien to the extent of the value given the debtor for the transfer.

21. Neither Tracey Rechtorik nor Jeffrey Rechtorik gave value to the debtor and Jeffrey Rechtorik did not give value to Tracey Rechtorik for the transfer of this interest to Jeffrey Rechtorik. Since in exchange for the transfer obligation, no property was transferred by Jeffrey Rechtorik to Tracey Rechtorik or David N. Dolton, and no antecedent debt owing from Tracey Rechtorik or David N. Dolton to Jeffrey Rechtorik was satisfied nor was an antecedent debt owing from Jeffrey Rechtorik to David N. Dolton or Tracey Rechtorik secured.

WHEREFORE, movant prays that this court declare and determine the right, title, or interest in and/or to the real estate described in "Exhibit A" of Jeffrey Rechtorik grant plaintiff avoidance of the claimed lien of Jeffrey Rechtorik pursuant to section 548 and Chapter 51 of the Pennsylvania Consolidated Statutes and section 550 as made applicable to both section 548 and Chapter 51 through section 544 of the United States Bankruptcy Code, for his costs herein incurred and for such other and further relief as is just and proper.

GIBSON & LOWRY

/s/ Michael J. Moran

Michael J. Moran (#0018869)
Attorney for Plaintiff
234 W. Portage Trail
P.O. Box 535
Cuyahoga Falls, OH 44222
moranecf@yahoo.com



Allegheny County
Valerie McDonald Roberts
Recorder of Deeds
Pittsburgh, PA 15219

Instrument Number: 2005-3677

Recorded On: February 04, 2005 As-Deed
Parties: D N S HOLDINGS L L C
To RECHTORIK TRACEY

of Pages: 5

Comment:

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT**

Deed 45.00
Pages > 4 0
Names > 4 0
Total: 45.00

Realty Transfer Stamp

Affidavit Attached-No	Stamp Num-T211720	
PITTSBURGH		
Ward-29-CARRICK		
Blk/Lot-60M86	Value	45.000.00
Commonwealth of Pennsylvania	450.00	
Munic-Pittsburgh City of	960.00	
School District-Pittsburgh	460.00	
	1,800.00	

Deed Registry Stamp

OFFICE OF PROPERTY ASSESSMENTS	- BLOCK AND LOT NUMBER
<i>Shane D. McElroy</i>	
Date: 1/1/2005	60-M-86
2005	KS

I hereby certify that the within and foregoing was recorded in the Recorder's Office in Allegheny County, PA

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT**

File Information:

Record and Return To:

Document Number: 2005-3677
Receipt Number: 382498
Recorded Date/Time: February 04, 2005 01:50P
Book-Vol/Pg: BK-DE VL-12342 PG-233
User / Station: E McGuire - Cash Super 03

SECURITY SETTLEMENT SERVICES
150 ROBBINS STATION RD
N HUNTINGDON PA 16642

PLAINTIFF'S EXHIBIT

A.



RECHTORIK TRACEY

PA 2007
DEEDS
PLAT OF S.HARVEY STATEMENT, INC.
RECORDED IN U.S.A.

This Deed

on the 26th day of January in the year 2005,

Between DNS Holdings LLC, a Pennsylvania Limited Liability Company

("Grantor")

and

Tracey Rechtorik,

("Grantee")

Witnessed, that in consideration of payment by the Grantee(s) to the Grantor(s) of Forty-five thousand (\$45,000.00)

Dollars,

the Grantor(s) do(es) hereby grant, sell and convey to the Grantee(s) her heirs and assigns

all that certain lot, or piece of ground, situate in the 29th Ward of the City of Pittsburgh, County of Allegheny, and Commonwealth of Pennsylvania, being lot 235, in the Oratio Plan of Lots, recorded in the Recorder's Office of said County in Plan Book Volume 17, pages 74 and 75; being more fully described as follows:

BEGINNING at a point on the Northwest corner of Leelyn (formerly Lilac) Street and Appian Way (formerly Beach Alley); thence Westwardly, along Appian Way, 170 feet to Lumar Way (formerly Cherry Alley); thence Northwardly, along Lumar Way, 25.28 feet to a point, at the dividing line between Lots 235 and 236 in said plan; thence Eastwardly, by said dividing line, a distance of 166.19 feet to a point on Leelyn Street; thence Southwardly, along Leelyn Street, a distance of 25 feet to the place of beginning.

HAVING erected thereon a two-story frame house, known as 1814 Leelyn Street, Pittsburgh (Carrick), Pennsylvania.

BEING designated as Block and Lot 60-4-86 by the Office of Deed Registry of Allegheny County.

NOTING also the same property that Teressa Sabel, Administratrix a.t.a.

01/25/2005 16:32 FAX 412 884 7186

KELLER WILLIAMS REALTY

2

of the Estate of Domenico Ricci, also known as Dominic Ricci, Deceased,
the surviving spouse of Nicolina Ricci, by his deed dated November 15,
2002 and recorded in the Office of the Recorder of Deeds of Allegheny
County in Deed Book Volume 11512, Page 490 granted and conveyed to
DWS HOLDINGS LLC, a Pennsylvania limited liability company, Grantor
herein.

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with the appearance: **We Hold the same to and for the use of the said Grantee(s)**
her heirs **and assigns forever. And the**
Grantee(s) for itself, its successors and assigns **and**
assigns hereby consent and agree that will WARRANT generally the property hereby conveyed.

NOTICE - THIS DOCUMENT MAY NOT SEAL, CONVEY, TRANSFER, EVIDENCE OR ESTABLISH THE TITLE TO THE COAL AND MINES OR SUPPORT THEREIN OR THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND IN THAT CONVENTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY MINER, REMAINING ON OTHER STRUCTURES ON OR IN SUCH LAND, THE EXERCISE OF THIS NOTICE DOES NOT RELEASE, RESTRICT OR LIMIT ANY LEGAL RIGHTS OR RESTRICTIONS CREATED, TRANSFERRED, OR ASSUMED BY THIS INSTRUMENT. THIS NOTICE IS FOR INFORMATION ONLY AND IS NOT AN APPROVED FORM APPROVED SEPTEMBER 30, 1995, AS AMENDED.

On this _____ day of _____, the Grantee(s) has/have heretofore attached and sealed the day and year first above-written:

D&B HOLDINGS LLC

WITNESS:
Tracey A. Smith **Seal:**
Don Smith **Seal:**
Don Smith **Seal:**

NOTICE

I / WE, THE UNDERSIGNED GRANTEE/GRAANTEES, HEREBY CERTIFY THAT I / WE KNOW AND UNDERSTAND THAT I / WE MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SLIDESSENCES RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY MAY BE PROTECTED FROM DAMAGE DUE TO MINE SLIDESSENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED IN ACCORDANCE WITH THE PROVISIONS OF THE BITUMINOUS MINE SLIDESSENCE AND LAND CONSERVATION ACT (P.L. 1988) AS AMENDED 1990, OCT. 10, P.L. 874, NO. 13651.

WITNESS:

Tracey Rechtorik **Seal:**
Tracey Rechtorik Tracey Rechtorik

THE Day of in The Year 2005.

Tracey Rechtorik

CERTIFICATE OF RESIDENCE

I hereby certify that the above residence of the Grantee(s) is
 PITTSBURGH, PA 15210

STATE OF MICHIGAN
 Commonwealth of Pennsylvania
 County of Allegan

COUNTY OF BARRY

On this the 26th day of JAN in the year 2005, before me,
 a Notary Public, personally
 appeared D&B HOLDINGS LLC By Nancy A. Smith and Don Smith
 , known to me (or satisfactorily proven) to be the person whose name is subscribed to the
 within instrument, and acknowledged that executed the same for the purpose therein contained.
 In witness whereof, I set my hand and official seal.

My Commission Expires 9/28/07

Kay Campbell
 Notary Public

01/25/2005 16:32 FAX 412 884 7168

KELLER WILLIAMS REALTY

D

State of _____
 County of _____ } on _____

On this day
 before me
 appeared

day of

In the year
 the undersigned officer, per

known to me (or satisfactorily proven) to be the person whose name subs
 the within instrument, and acknowledged that _____ executed the same for the purpose therein contains
 the witness affixed, I set my hand and official seal.

My Commission Expires _____

State of _____
 County of _____ } on _____

On this day
 before me
 appeared

day of

In the year
 the undersigned officer, per

known to me (or satisfactorily proven) to be the person whose name subs
 the within instrument, and acknowledged that _____ executed the same for the purpose therein contains
 the witness affixed, I set my hand and official seal.

My Commission Expires _____

From

DWS HOLDINGS LLC, a Pennsylvania
 limited liability
 company To
 TRACX PROTECTOR

Re: #

Debt Collection
 Securitization Svcs
 ISD Roberts Station Plaza
 1000 Penn Avenue
 Pittsburgh, PA 15222